

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*

State Engineer

Plaintiff,

v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-KWR/KK

RIO CHAMA STREAM SYSTEM

Section 7: Rio Brazos

Subfile Nos: CHRB-002-0001
CHRB-002-0002

**OPPOSED MOTION TO CORRECT CLERICAL ERROR AFFECTING CHAVEZ
CREEK DITCHES NO. 1 AND NO. 2 IN SECTION 7 RIO BRAZOS OF THE RIO
CHAMA STREAM SYSTEM**

Pursuant to Rule 60(a) of the Federal Rules of Civil Procedure, Plaintiff State of New Mexico, *ex rel.* State Engineer (“State”) moves the Court to amend the subfile orders listed below in the Rio Brazos subsection of Section 7 of the Rio Chama Stream System (“Rio Brazos Subsection”) to correct a clerical error in the description of the point of diversion for the Chavez Creek Ditch No. 1 and Chavez Creek Ditch No. 2. As grounds therefor, Plaintiff states:

1. The December 18, 2001, hydrographic survey of the Rio Brazos Subsection, which is the basis for the coordinates described in the subfile orders listed below, incorrectly described the X and Y coordinates of the point of diversion for the Chavez Creek Ditch No. 1 and Chavez Creek Ditch No. 2.

2. In the *Consent Order* for Subfile Nos. CHRB-002-0001 (Doc. 7922, filed 6/28/2005) and CHRB-002-0002 (Doc. 7921, filed 6/28/2005), the X and Y coordinates of the

point of diversion for the Chavez Creek Ditch No. 1 are described as X: 1,569,231 feet; Y: 2,095,199 feet. The correct description is X: 1,568,855 feet; Y: 2,093,836 feet.

3. In the *Consent Order* for Subfile No. CHRB-002-0001, the X and Y coordinates of the point of diversion for the Chavez Creek Ditch No. 2 are described as X: 1,568,855 feet; Y: 2,093,836 feet. The correct description for the point of diversion of Chavez Creek Ditch No. 2 is: X: 1,569,231 feet; Y: 2,095,199 feet.

4. Correcting the coordinates of these ditches in no way affects the nature or extent of the water rights and non-rights associated with these ditches.

5. The water rights owners for Subfile No. CHRB-002-0001 do not oppose this motion.

6. The State attempted to contact the water rights owners for Subfile No. CHRB-002-0002 regarding this motion but was unsuccessful.

WHEREFORE, the State requests that this Court amend Subfile Nos.: CHRB-002-0001 and CHRB-002-0002, which are associated with Chavez Creek Ditch No. 1 and Chavez Creek Ditch No. 2, to correctly state the X and Y coordinates for their respective points of diversion as described below.

Point of Diversion:

Ditch: CHAVEZ CREEK DITCH NO. 1

Location X: 1,568,855 feet Location Y: 2,093,836 feet

Ditch: CHAVEZ CREEK DITCH NO. 2

Location X: 1,569,231 feet Location Y: 2,095,199 feet

WHEREFORE the State requests that the Clerk of Court, pursuant to this Court's February 4, 2013, *Order* (Doc. 10891), mail a copy of the Order to Defendants Garcia Revocable Trust and Mundy Ranch, Inc. at the following addresses:

Garcia Revocable Trust
C/O Joseph O. Garcia
P.O. Box 90398
Albuquerque, NM 87199

Mundy Ranch, Inc.
C/O Susan Jane M. Mundy
P.O. Box 1087
Chama, NM 87520

DATED: November 21, 2022

Respectfully submitted,

/s/ Edward C. Bagley

EDWARD C. BAGLEY
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21 day of November, 2022, I filed the foregoing electronically through the CM/ECF system, which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served by electronic mail. Additionally, I have mailed a copy of this motion to Garcia Revocable Trust and Mundy Ranch, Inc. at the following addresses:

Garcia Revocable Trust
C/O Joseph O. Garcia
P.O. Box 90398
Albuquerque, NM 87199

Mundy Ranch, Inc.
C/O Susan Jane M. Mundy
P.O. Box 1087
Chama, NM 87520

/s/ Edward C. Bagley

Edward C. Bagley